

FILED

UNITED STATES COURT OF APPEALS

MAY 16 2013

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL DAVID RIGMAIDEN,

Defendant - Appellant.

No. 13-10254

D.C. No. 2:08-cr-00814-DGC-1  
District of Arizona,  
Phoenix

ORDER

A review of the record suggests that this court may lack jurisdiction over the appeal because the district court's May 8, 2013 order, which denied inter alia appellant's motion for an order requiring the government to comply with data deletion requirements, is not a final or otherwise appealable order. *See* 28 U.S.C. § 1291; *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 799 (1989) (collateral order exception is interpreted "with the utmost strictness" in criminal cases) (quoting *Flanagan v. United States*, 465 U.S. 259, 265 (1984)) .

Within 21 days after the date of this order, appellant shall move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. If appellant elects to show cause, a response may be filed within 10 days after service of the memorandum.

If appellant does not comply with this order, the appeal may be dismissed without further notice to appellant. *See* 9th Cir. R. 42-1.

Briefing is suspended pending further order of the court.

FOR THE COURT:

MOLLY C. DWYER  
CLERK OF COURT

By: Karen Golinski  
Deputy Clerk